

# **SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL**

**FEBRUARY 3, 2014**

**NS HIGH SCHOOL AUDITORIUM**

**7:00 P.M.**

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Ms. Alves, Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mr. Flaherty. Town Administrator Hamilton and Town Solicitor Lombardi were also in attendance.

Mr. Flaherty stated that he and Ms. Hamilton have been working on a plan regarding the school budget to present to the Town Council and to the School Committee. It would allow for an immediate halt to enacted and planned cuts that directly affect students. It would address long-term fiscal reforms needed to avoid a perennial controversy affecting the community. Despite what has been said, the Council has been willing to meet with the School Committee but has been told that budget advisors are not welcome. Any fix requires that any alleged budget deficit is understood and verified. Absent that, it is simply writing a blank check. Mr. Flaherty has just recently learned that some proposed cuts have either been restored or postponed. Despite the animosity among some, he is confident this can be resolved very soon and achieve two very important goals: 1.) Eliminate the threat of proposed cuts that directly affect students and 2.) Restore confidence and transparency in the school department's fiscal management.

**In an email to School Committee Chairman Robert Lafleur, Mr. Flaherty urged that a meeting be held soon, even if it was Saturday. Participants would include two Council members, two School Committee members, one or two members of the Budget Committee, the Town Administrator, the Superintendent of Schools, the school department Business Manager and the town's Finance Director. No one leaves the building until an agreement is reached.**

## **EXECUTIVE SESSION**

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted 4 to 1 on a roll call vote (Mr. Yazbak voted no on Item A1 but yes on Items A2 and A3) to enter executive session at 7:13 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation to discuss 1.) Potential litigation re: School Department projected deficit, 2.) Kaczorowski vs. Town of North Smithfield and 3.) Global Imaging Holdings, LLC - Claim and potential litigation on sewer use charge.**

**February 3, 2014**

**Mr. Yazbak commented that as of yet there has been no litigation threatened by the school department so he questioned if this would be proper to discuss in executive session.**

**Mr. Lombardi responded that he had read something in the corrective plan that could possibly lead to litigation and secondly, if there is a deficit and the town does not fund it, that could lead to possible litigation as well.**

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted 4 to 0 on a roll call vote (Mr. McGee had stepped out of the room for a moment) to come out of executive session at 8:24 P.M. and to seal the minutes. No motions were made and no votes were taken.**

**MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted 4 to 0 on a roll call vote (Mr. McGee had stepped out of the room) to continue the executive session items, Kaczorowski vs. Town of North Smithfield and Global Imaging Holdings, LLC, to later in the evening.**

#### **SCHOOL DEPARTMENT BUDGET DEFICIT**

**Mr. Flaherty explained that the Council had spent the time in executive session reviewing a proposed agreement with the School Committee.**

**MOTION by Mr. Zwolenski and seconded by Ms. Alves to accept the agreement and to forward it to the School Committee for their consideration.**

**Mr. Yazbak believes this agreement will not be acceptable to the School Committee. The Council put in \$240,000 in the 2013/2014**

**budget as a sports contingency and he thinks the town should send it over. He feels it would go a long way to solving this problem. This agreement only addresses \$190,000 of a projected \$430,000 deficit.**

**The agreement reads as follows and was designated as Exhibit A: “This agreement (“Agreement”) is entered into by and between the North Smithfield Town Council (“Town”), the School Committee of the Town of North Smithfield (“School Committee”), and its duly appointed Superintendent, Stephen Lindberg, and/or his successor (“Superintendent”), not individually but in their respective duly elected or appointed official capacities. RECITALS WHEREAS, by letter dated January 27, 2014, the School Committee notified the Town Council of a projected year end deficit for FY2014 in the amount of approximately \$470,000.00; WHEREAS, the School Committee has forwarded to the Town a memorandum of January 22, 2014 from the School Department business manager identifying the areas of deficit as Pupil Personnel Services (\$387,097), Facilities Operations (\$119,320), and Central Office (\$27,319); WHEREAS, the School Committee has forwarded a Corrective Action Plan that calls for, among other things, eliminating funding for extracurricular activities and spring sports; WHEREAS, the Town seeks the opportunity to perform a full review of the School Department financials in order to verify the extent of the alleged deficit; WHEREAS, the Town at the same time remains committed to ensuring that its children and youth have continued, uninterrupted access to the athletic and extracurricular activities that enrich their educational experience and**

enhance their opportunities for post-secondary education; WHEREFORE, it is hereby agreed as follows: **OBLIGATIONS** 1. The School Committee agrees to lift the freeze on all budget line items from the North Smithfield Elementary School, Halliwell, High School, Middle School, and Curriculum/Professional Development for a total of \$139,877. 2. The School Committee agrees to fund the HS Varsity and Junior Varsity: Middle School spring sports programs - coaches, budgets, transportation as described and identified in Schedule A for a total of \$51,041. 3. The Town agrees that on the last day of FY 2014, it shall appropriate \$190,918 to cover the obligations described in item 1 & 2 should there be a deficit in those areas cited by the January 22, 2014 memorandum, that is, Pupil Personnel Services, Facilities Operations, and Central Office. 4. The School Committee agrees to continue to pursue items B. 2, 3, and 8 as described in its Corrective Action Plan. 5. Said appropriation is conditioned upon the School Committee and Superintendent's maintaining all present extracurricular and athletic

**February 3, 2014**

activities. It is understood that the amounts expended in these areas shall not exceed the amounts identified in the adopted budget. 6. An ad hoc committee shall be created and chaired by the President of the Town Council, and shall further consist of: the Town Administrator, the Superintendent of Schools, the School Committee Chair or another member of the School Committee, the School Department's Business Manager, the Chair of the Budget Committee or another

member of the Budget Committee. 7. The purpose of the Ad Hoc Committee shall be to verify the extent of the deficit, review revenue sources including grant funds, identify alternative reductions which could be made in other line items, and monitor spending throughout the remainder of the school year. 8. The first task of the Ad Hoc Committee shall be to determine the amount of the deficit of the date of its first meeting. 9. All meetings of the Ad Hoc Committee shall be open to the public and records kept. Audio tapes shall be maintained. 10. The School Committee and Superintendent agree to provide said Ad Hoc Committee access to any and all records relevant to the School department's financial condition, including but not limited to correspondence, memoranda, reports, statements, invoices, and audits. There will be no charge for access to said records and/or retrieval thereof. 1. The School Committee and Superintendent agree to provide said Ad Hoc Committee and Town's auditor access to any and all School Department personnel with knowledge of the School Department's financial condition, including, but not limited to, its auditor, and instruct those personnel to cooperate with the Ad Hoc Committee. 12. The School Committee and Superintendent otherwise agree to participate in good faith with the Ad Hoc Committee review of the School Department's financial status. 13. The School Committee shall not incur any expenditure which would increase the projected deficit without the approval of the Ad Hoc Committee. 14. Any additional appropriation or authorization to re-appropriate funds held by the district is also conditioned upon the recommendation of an Ad Hoc Committee charged with reviewing

the School Department financials to determine existence of and extent of said deficit. 15. Because time is of the essence, the Ad Hoc Committee shall commence work immediately, and shall meet on as-needed basis at the call of its Chair. 16. The Ad Hoc Committee shall prepare a written preliminary report to the Town Council and School Committee no later than May 1, 2014 with a final report submitted no later than June 30, 2014. Said final report will include its recommendation of what amount, if any, is necessary to cover any deficit in those areas cited by the January 22, 2014 memorandum. 17. The School Committee agrees to comply with the recommendation of the RI Auditor General that a single audit firm be engaged to conduct the annual town audit as described in Article IV, section 10 of the Town Charter and in compliance with R.I.G.L. § 45-10-4. The School Committee shall expend no additional funds on legal services to contest the Auditor General's recommendation. 18. The Budget Committee will be supplied with Excel files of School Department Budget data as previously requested. 19. School Department Budgets will include a three year expenditure history by line item identified by UCOA number. 20. The School Committee agrees to attend a Joint meeting of the Town Council, School Committee and Budget Committee to discuss outstanding issues.”

Mr. Flaherty read from the June 17, 2013 Council minutes: “FY2014 includes the addition of line items for Contingency Infrastructure and Contingency Sports. These budget line items were added this year to cover infrastructure improvements throughout the Town, as well as

**an amount to fund school sports should the School Department be unable to fund the program with their existing allocation.” What was presented to the Town Council by the school department was a balanced budget that included sports. Mr. Flaherty questioned where the money would go if it is transferred tonight. It wouldn’t go to the sports line because it has already been accounted for.**

**The meeting was opened up to public comment.**

**Catherine Hall felt the matter should not have been discussed in executive session as it was not potential litigation. She also felt the law does not allow for certain members of the public to be included in executive session, such as the members of the Budget Committee.**

**February 3, 2014**

**It was brought up that, by state law, the School Department has to notify the town within five days of learning they could have a deficit. Some School Committee minutes seem to indicate that it may have been known as early as October and yet the town was not notified.**

**Comments followed from many students and parents angry with the proposed cuts, angry that the \$240,000 has not been transferred, angry that the Council and School Committee have not met to work this out.**



**There were other comments from residents who were dismayed and frustrated that the deficit issue seems to crop up year after year. There were those who were in favor of having an outside audit done on the school department.**

**School Committee members William Connell and Donna Narodowy agreed to bring the agreement to the rest of the members and review it.**

**Budget Committee Chairman Michael Clifford offered his opinion as to how funds have been used within the school budget.**

**Mr. Yazbak strongly supported the transfer of the \$240,000 stating that it had been promised to them and it was only fair to send it over. From 2009 to the present the school department has seen a minimal increase in funding.**

**Because of the time, Mr. Zwolenski withdrew his motion and Ms. Alves withdrew her second.**

**MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote at 10:00 P.M. to extend the meeting to 11:00 P.M.**

**Superintendent of Schools Stephen Lindberg stated the school department has given a box load of documents and will continue to**

do so but he will not provide the names of special education students.

**MOTION** by Mr. Yazbak and seconded by Mr. McGee to transfer \$240,000, as has already been approved in the budget for sports, to the school department. Ms. Alves - no; Mr. McGee - yes; Mr. Yazbak - yes; Mr. Zwolenski - no; and Mr. Flaherty - no. The motion failed 3 to 2.

**MOTION** by Mr. Zwolenski, seconded by Ms. Alves, and voted 3 to 2 on a roll call vote (Mr. McGee and Mr. Yazbak voted no) to accept the agreement that was reviewed, to sign it and to forward it to the School Committee for their consideration.

**MOTION** by Mr. Yazbak and seconded by Mr. Zwolenski that if this agreement is sent to the School Committee and they reject it in the next week, he would like to have a special meeting to be held next Monday night to reconsider the transfer of \$240,000 over to them.

Following further discussion Mr. Yazbak withdrew his motion and Mr. Zwolenski withdrew his second.

**MOTION** by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to invite the School Committee to a special meeting next Monday night.

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to take a five-minute recess at 10:13 P.M.**

**The meeting resumed at 10:21 P.M.**

**MOTION by Ms. Alves, seconded by Mr. McGee, and voted 4 to 0 on an aye vote to continue the following items to February 18, 2014: VIII. Public Hearing on Public Facilities Advisory Task Force Proposals, IX. Public Hearing on Proposed Charter Amendments and X. (A) Discussion by Council, Vote or Other Action on Additional Wireless Facility on Comstock Road Water Tower, (B) Discussion by Council, Vote or Other Action on List of Outstanding Capital Items and (C) Discussion by Council, Vote or Other Action Regarding Open Meetings Act Complaints and Findings.**

**February 3, 2014**

#### **NATIONAL GRID - WEST FARNUM SUBSTATION CISTERN**

**Fire Chief Jillson asked the Council to accept a \$60,000 check from National Grid to install and fill a 10,000 gallon underground cistern to provide water supply to the North Smithfield Fire Department. Fire Marshal Brian Gartland required National Grid to provide water supply in the vicinity of the West Farnum Substation as part of his plan review report. Due to the high voltage equipment within the Substation and the fact that only limited combustibles are located**

there, National Grid does not believe that a cistern should be located within the Substation property. In order to meet the fire marshal's plan review requirements, National Grid will fund the installation of a 10,000 gallon cistern at an appropriate site to be determined by the fire department.

**MOTION** by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to consider the document as the Clerk had forgotten to include it in their packets.

**MOTION** by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to accept the offer from National Grid and that the money be placed in a restricted fund for the intended use.

**MOTION** by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to authorize the Town Council president to execute the agreement.

## **EXECUTIVE SESSION**

**MOTION** by Ms. Alves, seconded by Mr. McGee, and voted unanimously on a roll call vote to enter into executive session at 10:28 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation to discuss Kaczorowski vs. the Town of North Smithfield and a claim and potential litigation on sewer

**use charge by Global Imaging Holdings, LLC.**

**MOTION by Ms. Alves, seconded by Mr. McGee, and voted unanimously on a roll call vote to come out of executive session at 10:53 P.M. and to seal the minutes. No motions were made and no votes were taken.**

### **KACZOROWSKI VS TOWN OF NORTH SMITHFIELD**

**MOTION by Ms. Alves and seconded by Mr. McGee to authorize the Town Administrator to approve an agreement regarding Kaczorowski vs Town of North Smithfield in substantial form that appropriates three payments, the first \$100,000 to be paid immediately with \$5,000 to be paid by the Interlocal Trust and the next two payments of \$95,000 each to be paid within the first week of the next two fiscal years.**

**The roll call vote was 3 to 1. Mr. Zwolenski abstained because he is a defendant and Mr. Yazbak voted no. Not only is he a named defendant but he does not agree with the settlement, believing that it is not in the best interest of the town.**

**MOTION by Ms. Alves, seconded by Mr. Yazbak, and voted unanimously on an aye vote to adjourn at 11:00 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**